United Nations A/69/265

General Assembly

Distr.: General
6 August 2014

Original: English

Sixty-ninth session
Item 69 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Extrajudicial, summary or arbitrary executions

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, submitted in accordance with Assembly resolution 67/168.

* A/69/150.

14-58858 (E) 250814

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Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions

Summary

In the present report, the Special Rapporteur provides an overview of his activities and considers four topics relating to the protection of the right to life: (a) the role of regional human rights systems; (b) less lethal and unmanned weapons in law enforcement; (c) resumptions of the death penalty; and (d) the role of statistical indicators.

I. Introduction

1. The present report provides an overview of the activities carried out by the Special Rapporteur since the submission of his previous report to the General Assembly (A/68/382 and Corr.1). In sections III to VI, he focuses on four topics relating to the protection of the right to life: (a) the role of regional human rights systems; (b) less lethal and unmanned weapons in law enforcement; (c) resumptions in the application of the death penalty; and (d) statistical indicators.[1]

II. Activities of the Special Rapporteur

2. The activities carried out by the Special Rapporteur during the period from 28 July 2013 to 27 February 2014 are outlined in his report to the Human Rights Council at its twenty-sixth session (A/HRC/26/36). In the thematic section of that report, the Special Rapporteur focused on domestic legal provisions regulating the use of force.

A. International and national meetings

3. From 26 to 28 March 2014, the Special Rapporteur participated in a meeting on autonomous weapons systems, organized in Geneva by the International Committee of the Red Cross.

4. On 15 April, he made a presentation on autonomous weapons systems at the Faculty of Law of the University of Cape Town, South Africa.

5. From 27 to 29 April, he attended the fifty-fifth session of the African Commission on Human and Peoples' Rights, held in Luanda.

6. From 13 to 16 May, he delivered a statement at an informal expert meeting convened in Geneva at the request of the High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects.

7. On 19 and 20 May, he participated in a meeting of experts on the weaponization of increasingly autonomous technologies, held in Geneva.

8. On 10 June, he participated in a side event organized by Amnesty International on human rights implications of lethal and less lethal autonomous weapons systems, held in Geneva.

9. On 11 June, he participated in a side event on human rights, disarmament and killer robots, organized in Geneva by the Campaign to Stop Killer Robots.

10. On 13 June, he participated in a side event on police use of force and human rights protections in social protests, organized in Geneva by the Centre for Social and Legal Studies.

[1] Thomas Probert of the Institute for International and Comparative Law in Africa, University of Pretoria, and the Centre of Governance and Human Rights, University of Cambridge, provided invaluable research assistance in the preparation of the present report.

11. On 19 June, he spoke at the launch of *Unlawful Killings in Africa*, a report published by the Centre of Governance and Human Rights, and delivered a public lecture on the theme "Autonomous weapon systems: the future?" at the University of Cambridge, United Kingdom of Great Britain and Northern Ireland.

12. From 2 to 4 July, he spoke on regional perspectives of the death penalty at the Continental Conference on the Death Penalty, organized in Cotonou by the African Commission on Human and Peoples' Rights in cooperation with the Government of Benin.

13. On 14 and 15 July, the Special Rapporteur participated in an expert seminar on the duty to investigate after attacks in situations of armed conflict and armed violence, organized in Lucens, Switzerland, by the Geneva Academy of International Humanitarian Law and Human Rights.

14. On 22 July, he presented a paper on autonomous weapons systems at Oxford University, United Kingdom.

B. Visits

15. The Special Rapporteur visited Papua New Guinea from 3 to 14 March 2014, at the invitation of the Government. His report on that visit will be submitted to the Human Rights Council in 2014.

16. Since the submission of his previous report to the General Assembly, the Special Rapporteur has sent requests for visits to the Governments of Rwanda, Ukraine and Yemen. He expresses his thanks to the Governments of the Gambia, Iraq and Yemen, which have responded positively to his requests, and encourages the Governments of Egypt, Iran (Islamic Republic of), Madagascar, Pakistan and Sri Lanka to accept his pending requests.

III. Regional human rights systems as entry points for the right to life

17. It is an ongoing concern of the mandate holder to place the right to life more squarely on the agenda of international human rights bodies, domestic mechanisms (such as courts and national human rights institutions) and of those who access them (individuals, non-governmental organizations and others). The system is a holistic unit, with each component playing a vital role. Highlighted in the present section is the important role that regional systems play in both dimensions of the right to life — prevention and accountability — with encouragement given to the increased use of the opportunities, or entry points, that they present in this regard.

18. Regional systems are in many cases closer to the people concerned than the global system and, as such, have a unique ability to facilitate greater participation in the international system and to foster its legitimacy. The universality of human rights cannot mean only that all people from all parts of the world are held to the same standards; universality also requires that people from all parts of the world have a role to play in determining what those standards are in the first place.

19. Special focus will be placed on the important, although often less well-known, role that emerging regional or subregional systems can play in this context. Only

references for directly cited sources are provided; other references are available on the websites of the respective mechanisms.

A. Africa

African Union

20. The right to life is set out in article 4 of the African Charter on Human and Peoples' Rights (African Charter), article 4 of the Protocol to the African Charter on the Rights of Women in Africa and article 5 of the African Charter on the Rights and Welfare of the Child.

21. According to the African Commission on Human and Peoples' Rights, the right to life is "the fulcrum of all other rights" and "the law must strictly control and limit the circumstances in which a person may be deprived of his life by the authorities of a State".[2] It has addressed the right to life through resolutions, in the consideration of the reports of States, by creating special procedures, in country visits and through its case law.

22. With regard to the death penalty, the African Commission in 1999 and 2008 adopted resolutions urging States to, respectively, envisage and observe a moratorium on the execution of death sentences with a view to abolishing the death penalty. In its case law, the Commission has found violations of the right to life when a person is executed after an unfair trial. Although the Commission did not make a clear ruling against the death penalty in *Bosch*, it did emphasize the global trend towards abolition of the death penalty.[3] More recently, the Commission is in the process of adopting an optional protocol on the abolition of the death penalty in Africa, with support from civil society.

23. With regard to use of force, the African Commission has noted that lethal force must be subject to independent and public scrutiny[4] and has generally followed the United Nations guidelines in this area.[5]

24. In *Kazingachire*, the Commission held that it was only "under closely defined circumstances [where] one life may be taken as a last resort in order to protect another life or lives".[6] The Commission has found violations of the right to life in relation to killings of alleged criminals, political opponents, ethnic minorities and striking workers. In *Aminu*, the Commission found a violation of the right to life in relation to death threats, noting that it would be a narrow interpretation of this right to think that it can only be violated when one is deprived of it.[7]

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[2] African Commission on Human and Peoples' Rights, communication No. 288/04, *Gabriel Shumba* v. *Zimbabwe*, 2012, para. 130.

[3] African Commission on Human and Peoples' Rights, communication No. 240/01, *Interights and Others (on behalf of Mariette Sonjaleen Bosch)* v. *Botswana*, 2003, para. 52.

[4] *Gabriel Shumba* v. *Zimbabwe*, para. 136. See also African Commission on Human and Peoples' Rights, communication No. 279/03-296/05, *Sudan Human Rights Organization and Centre on Housing Rights and Evictions* v. *Sudan*, 2009, para. 147.

[5] African Commission on Human and Peoples' Rights, communication No. 295/04, *Noah Kazingachire and Others (represented by Zimbabwe Human Rights NGO Forum)* v. *Zimbabwe*, 2012, paras. 96 and 110.

[6] Ibid., para. 122.

[7] Ibid., communication No. 205/97, *Kazeem Aminu* v. *Nigeria*, 2000, para. 18.

25. In the context of a civil war, the African Commission has gone as far as holding the State liable for not providing security and stability, resulting in violations of the right to life.[8] The African Court on Human and Peoples' Rights has adopted provisional measures in a case against Libya concerning imminent threats to the right to life in the context of armed conflict.

26. According to the African Commission, investigations of alleged extrajudicial executions "must be carried out by entirely independent individuals, provided with the necessary resources, and their findings should be made public and prosecutions initiated in accordance with the information uncovered".[9]

27. In one of its first merits judgements, the African Court on Human and Peoples' Rights in March 2014 found that Burkina Faso had failed to act with due diligence in seeking, trying and judging the assassins of journalist Norbert Zongo and his companions.[10]

28. Recent resolutions adopted by the African Commission of relevance to the right to life include those on summary execution and enforced disappearance in Mali (2013), police and human rights in Africa (2013), the right to peaceful demonstrations (2014) and the violation of the right to life by terrorist groups in Africa (2014).

29. The Commission established a working group on the death penalty, which produced a study on the question of the death penalty in Africa.[11] In 2012, its mandate was expanded, and it became known as the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa. This active and engaged Working Group has begun a practice of adopting intersessional reports on the right to life[12] and has recently embarked on an important process to adopt a general comment on the right to life.

30. Members of the African Commission have raised right-to-life concerns during the consideration of the reports of States, a process similar to the United Nations treaty bodies. Right-to-life issues have also been addressed by other special mechanisms of the Commission, such as the Special Rapporteur on Prisons and Conditions of Detention. The Commission recently adopted guidelines concerning the condition of arrest, police custody and pretrial detention in Africa; in article 20 of the guidelines, it is emphasized that, given the control exercised over persons in custody, the State must give a satisfactory explanation for any death or serious injury to a person deprived of their liberty.

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[8] Ibid., communication No. 74/92, *Commission Nationale des Droits de l'Homme et des Libertés* v. *Chad*, 1995. See also African Commission on Human and Peoples' Rights, communications Nos. 48/90, 50/91, 52/91 and 89/93, *Amnesty International and Others* v. *Sudan*, 1999.

[9] *Amnesty International and Others* v. *Sudan*, para. 51.

[10] African Court on Human and Peoples' Rights, *Norbert Zongo and Others* v. *Burkina Faso*, application No. 013/2011, judgement of 28 March 2014.

[11] Available from www.achpr.org/files/news/2012/04/d46/study_question_deathpenalty_africa_2012_eng.pdf.

[12] See part 3 of the intersessional activity report of the Working Group, available from www.achpr.org/sessions/55th/intersession-activity-reports/death-penalty/.

Subregional initiatives

31. The International Conference on the Great Lakes Region is governed by the Pact on Security, Stability and Development in the Great Lakes Region. The right to life is explicitly recognized in its Protocol on the Protection of and Assistance to Internally Displaced Persons and implied in other protocols, such as the Protocol for the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and All Forms of Discrimination.

32. The Legislative Assembly of the East African Community has adopted a bill of rights for the Community, in which the right to life is recognized.[13]

33. The Community Court of Justice of the Economic Community of West African States may hear cases alleging violations of the African Charter. In *Hassan*, it dealt with accountability for extrajudicial executions by armed gangs supported by the one of the state governments.[14] In 2014, the Court addressed both the death penalty[15] and compensation for failure to investigate the death of a journalist.[16]

B. Americas

Organization of American States

34. Article 4, paragraph 1, of the American Convention on Human Rights provides that "every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life". Limitations on the death penalty are set out in paragraphs 2 to 6 of the article. According to article 27, paragraph 2, States may not derogate from article 4. The Protocol to the Convention, on abolishing the death penalty, has been ratified by 13 States.

35. States members of the Organization of American States that are not party to the Convention are bound by the American Declaration of the Rights and Duties of Man, article 1 of which provides for the right to life. The right to life is also established in article 4 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

36. In 1983, the Inter-American Court of Human Rights observed in paragraph 55 of its advisory opinion OC-3/83 that the imposition of the death penalty in retentionist States must strictly meet international procedural standards, must be restricted to the most serious crimes, and that the personal circumstance of the defendant must be taken into account. It held that the death penalty may be imposed only for the most serious crimes resulting in the loss of life.

37. Deadly use of force requires legality, absolute necessity and proportionality. In cases on the use of lethal force by security agents, the Inter-American Court has referred both to the case law of the European Court of Human Rights and to the United Nations standards. State agents may use deadly force only against persons

[13] See http://federation.eac.int/index.php?option=com_docman&task=cat_view&gid=38&Itemid=136.

[14] Suit ECW/CCJ/APP/03/10, judgement of 15 March 2012.

[15] See www.worldcoalition.org/nigeria-ecowas-court-death-penalty-human-rights-minor-appeal.html.

[16] See http://cpj.org/2014/06/ecowas-court-rules-gambia-failed-to-investigate-jo.php#more.

who constitute an immediate, deadly threat and must ensure that others are not killed in the process.[17] When its agents use deadly force, the State has the burden to prove that their action was justified.

38. The Inter-American Court has held that the State must take preventive measures to avert violence within prisons rather than use deadly force. The Court has in a number of cases noted the connection between forced disappearances and the right to life, noting that disappearance often implies the secret execution of prisoners.

39. According to the Inter-American Court, the right to life is a prerequisite for all other rights and may not be narrowly interpreted. States must establish the conditions necessary to prevent violations of the right to life, both by their officials and by private individuals, including through legislation and effective institutions to investigate, punish and redress deprivation of life.[18] The Court has held that an illegitimate act when committed by a non-State actor can lead to the international responsibility of the State, not in the light of the act itself, but because of the failure to prevent or respond to it effectively. The obligation of the authorities to take preventive measures is conditioned by their awareness of a situation of a real and immediate danger to a specific individual or group of individuals and to the reasonable possibility of preventing or avoiding that risk.

40. The Inter-American Commission has 10 thematic rapporteurs. Both they and the Commission issue press releases regarding violations of the right to life that fall within their mandates. The Commission has produced various thematic reports on the right to life, including its 2011 report on the death penalty, its 2005 study on the murder of journalists and its country reports.[19]

41. Under article 25 of its rules of procedure, the Inter-American Commission may adopt precautionary measures in serious and urgent situations presenting a risk of irreparable harm to persons. The Commission may request provisional measures from the Inter-American Court. With regard to the right to life, precautionary or provisional measures have been used in relation to the death penalty, protection of persons who have been assaulted, threatened or disappeared or who belong to groups whose members have been killed.

42. In preparing its reports, the Inter-American Commission may, in accordance with article 59 of its rules of procedure, use reliable and credible information provided by civil society organizations. Pursuant to article 66 of the rules, such organizations may also request that the Commission hold country-specific or thematic hearings. Hearings held in relation to the right to life include those on citizen security, the death penalty and human rights defenders.[20]

Subregional initiatives

43. Article 19 of the Andean Charter for the Promotion and Protection of Human Rights (A/C.3/57/2, annex) provides that member States shall protect the right to

[17] Inter-American Court of Human Rights, *Zambrano Vélez and Others* v. *Ecuador*, judgement of 4 July 2007, para. 85.

[18] Ibid., *Montero-Aranguen and Others* v. *Venezuela*, judgement of 5 July 2006, para. 66.

[19] See www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf and www.cidh.org/relatoria/section/Asesinato%20de%20Periodistas%20INGLES.pdf.

[20] See www.oas.org/es/cidh/audiencias/topics.aspx?lang=en.

life in line with the International Covenant on Civil and Political Rights, other international instruments and national constitutions. The Charter does not establish a monitoring mechanism but sets out that member States should cooperate with international monitoring bodies.

44. The MERCOSUR Institute of Public Policies on Human Rights (www.ippdh.mercosur.int) has a mandate that includes research, technical support and coordination of human rights policies. Themes include citizen security and the prevention of institutional violence.

C. Europe

Council of Europe

45. The right to life is provided for in article 2 of the European Convention on Human Rights, which sets out the circumstances — subsequently elaborated by the Court — under which intentional deprivation of life is allowed.

46. The death penalty has been abolished in all States members of the Council of Europe, in line with Protocols 6 and 13.[21]

47. With regard to the use of force, the European Court has relied strongly on United Nations standards and has made a major contribution towards the development of the jurisprudence in this area as far as the prevention of violations and the need for accountability are concerned. This case law[22] is well known and will not be repeated here except to emphasize the importance of the notion of precaution and prevention as part of the protection of the right to life, which deserves attention in other systems as well.[23]

48. The Council of Europe Commissioner for Human Rights undertakes country visits and publishes country-specific and thematic reports. The Parliamentary Assembly of the Council addresses human rights issues, among others, through the adoption of resolutions.

European Union

49. Article 2, paragraph 1, of the Fundamental Rights Charter of the European Union, which is part of the Treaty on the European Union, provides that everyone has the right to life. According to paragraph 2 of the same article, the death penalty may not be imposed or executed.

50. The European Union Agency for Fundamental Rights (http://fra.europa.eu/en) provides research and advice to member States on the implementation of human rights within the Union.

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[21] The Russian Federation has not abolished the death penalty in law but the penalty has not been applied since 1999, following the decision of the Constitutional Court to impose a moratorium.

[22] See http://www.echr.coe.int/Pages/home.aspx?p=home.

[23] See, for example, European Court of Human Rights, *McCann and Others* v. *the United Kingdom*, application No.18984/91, 27 September 1995, paras. 202-213.

D. Other regional mechanisms

Organization for Security and Cooperation in Europe

51. The Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (www.osce.org/odihr) produces reports and guidelines on various themes. Those of relevance to the right to life include the widely used *Guidelines on Freedom of Peaceful Assembly*.[24]

Association of Southeast Asian Nations

52. Article 11 of the Human Rights Declaration of the Association of Southeast Asian Nations (ASEAN) provides for the right to life. The limitation clause that "no person shall be deprived of life save in accordance with law" is overly broad, and the ASEAN Intergovernmental Commission on Human Rights should establish constraints on how it should be interpreted.[25] The terms of reference of the Commission, which provide that it should consult civil society, are currently under revision. The Commission has set itself the task of developing in 2015 a thematic study on the right to life, with particular attention to a moratorium on the death penalty in the ASEAN region; an important development that has much potential.

League of Arab States

53. The seven-member Arab Human Rights Committee established under the Arab Charter considers State reports and adopts concluding observations. The draft statute of the Arab Court of Human Rights has been criticized by civil society organizations because only States would be able to submit cases to the court.[26]

Organization of Islamic Cooperation

54. The Cairo Declaration on Human Rights in Islam provides, in its article 2, that the right to life must be protected and may be taken only in accordance with sharia law.

E. Conclusion

55. **The regional system for the protection of human rights forms an important, if often underutilized, part of the global protection of the right to life.**

56. **Regional human rights systems are well placed to engage with States about right-to-life issues and should seek to secure this right as a priority. Likewise, regional systems offer multiple entry points that should be used by civil society to ensure realization of the right to life, ranging from lodging individual communications and requesting precautionary or interim measures, to**

[24] Available from www.osce.org/odihr/73405.

[25] Office of the United Nations High Commissioner for Human Rights, news release, "Pillay encourages ASEAN to ensure Human Rights Declaration is implemented in accordance with international obligations". Available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12809&LangID=E.

[26] See www.fidh.org/en/north-africa-middle-east/league-of-arab-states/15489-proposed-arab-court-of-human-rights-an-empty-vessel-without-substantial.

presenting shadow reports in the case of the African system and participating in the development of thematic studies on the right to life in the African and ASEAN systems.

57. One example of an area in which regional systems can potentially play a stronger role relates to whether domestic laws and practices of States concerning the use of force by law enforcement officials comply with international standards. In my report to the Human Rights Council in June 2014 (A/HRC/26/36), I emphasized the need for reform in this area. I also offered to facilitate technical assistance to States wishing to reform those laws, and wish to reiterate that offer, including by working with regional systems.[27]

58. The United Nations has a strong interest in working with and supporting the regional human rights systems.[28] Greater cooperation between the special mechanisms of the United Nations and those of the African Commission on Human and Peoples' Rights was given a tangible agenda by the road map adopted in Addis Ababa in January 2012.[29]

F. Recommendations

59. The United Nations should continue to seek ways to engage with and support the work of the regional human rights systems.

60. Each regional system should audit its own practices and priorities to establish where it can increase its engagement and impact concerning the right to life. Regional systems should also learn from one another in this regard.

61. It is incumbent on all mechanisms involved in interpreting and applying the right to life in specific cases, including the regional systems, to take cognizance of developments elsewhere in this area in order to ensure coherence worldwide.

62. Regional systems in areas in which the death penalty continues to be practised should challenge this on the basis of the right to life, the right to dignity and the right to freedom from cruel, inhuman or degrading treatment or punishment.

63. Regional systems should scrutinize the domestic laws and practices of States with regard to the use of force during law enforcement to establish whether such laws and practices are in conformity with international standards.

64. Civil society should use all the mechanisms available within regional systems to ensure that the issues relating to the right to life receive continuous attention and remain central to the respective agendas.

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[27] For ease of reference, many of the laws are available from www.icla.up.ac.za/un/use-of-force.

[28] See www.ohchr.org/EN/Countries/NHRI/Pages/Cooperation.aspx.

[29] Available from www.ohchr.org/Documents/HRBodies/SP/SP_UNHRC_ACHPRRoad%20Map.pdf. See also the report on the review of the road map, available from www.ohchr.org/Documents/HRBodies/SP/OutcomeReviewAARoadmap_EN.doc.

IV. Use of less lethal and unmanned weapons in law enforcement

65. The use of force against the human person, including the use of deadly or potentially deadly force by agents of the State, is a central human rights concern. Recent years have seen a significant development in the technology available to law enforcement officials and to non-State actors such as private security companies. Industries have developed around those weapons and market forces are often significant drivers in their availability, functions and use.

66. Two problems raised by these new developments are discussed below: the sometimes lethal or otherwise serious effects of so-called less lethal weapons; and the possibilities that increasing depersonalization of the use of force — through unmanned force delivery technologies — may infringe upon human rights standards.

67. It is an underlying theme of the present section — and indeed of much of my work as Special Rapporteur — that, to the extent that the current, often astounding, advances in technology give States and others who use them the ability better to moderate and monitor the use of force, they come with heightened responsibility. The availability of advanced technology implies higher levels of obligation regarding the decisions on whether and how much force to use, and also accountability and monitoring with regard to the exercise of that discretion.

68. Consideration should be given to the question of whether the international trade in such devices needs to be controlled in addition to the requirements of the Arms Trade Treaty, and be subject to export control licensing.

A. Lethal potential of "less lethal" weapons

69. Principles 2, 4 and 5 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide that, where force is necessary, graduated force should as far as possible be used.[30] In this context, less lethal weapons may in some cases provide officials with less dangerous options than the use of firearms and thus may save lives. The availability of such weapons implies that law enforcement officials should, where appropriate, use them. However, while less lethal weapons should, in general, be welcomed, it must be remembered that almost any use of force against the human person can under certain circumstances lead to loss of life or serious injury.[31]

70. An increasing number of detailed reports by human rights organizations document how protesters and bystanders have been wounded and sometimes died following the use by police and security personnel of rubber-coated metal bullets,[32]

[30] See also A/HRC/26/36, paras. 59, 69, 102 and 139; A/61/311, paras. 33-45; A/HRC/14/24, paras. 33-37; and A/68/382 and Corr.1, paras. 33-37.

[31] See, generally, Abi Dymond and Neil Corney, "The use of 'less lethal' weapons in law enforcement", in Stuart Casey-Maslan, ed., *Weapons Under International Law* (New York, Cambridge University Press, 2014).

[32] See, for example, Amnesty International, *Trigger-happy: Israel's Use of Excessive Force in the West Bank*, 27 February 2014.

the reckless use of tear gas,[33] electric shock projectiles,[34] rubber ball projectiles,[35] plastic bullets and water cannons.[36]

71. Deadly consequences could also occur because of the use of such weapons in confined spaces, for example where tear gas accumulates or leads to stampedes.[37]

72. Moreover, the requirement under human rights law is not merely to distinguish between lethal and any non-lethal force. Even if it is unlikely to lead to death, the force used must still be the minimum required by the circumstances of each case. The danger is that law enforcement officials may argue that the weapons that they use are labelled "less lethal" and then fail to assess whether the level of force is not beyond that required.

73. While there is a high level of agreement on the international standards applicable to the use of force during law enforcement, the increasingly advanced technology requires a more detailed regulatory framework. A process involving States and the international community, in addition to civil society, is needed to set out how the standards set by the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the relevant jurisprudence should be applied to the scenarios created by the new technology.

74. Of particular importance are precautionary measures, such as appropriate training to use increasingly sophisticated weapons. I have argued elsewhere that precaution is an often overlooked but crucially important component of the protection of the right to life (A/HRC/26/36, paras. 63 and 64). It is bound to grow in importance as technology develops further. In addition to general training on the Basic Principles, law enforcement officials should undergo training on each type of device with which they have been issued and the standards mentioned above. In some instances, licences for specific devices may be required.

75. Minimum standards need to be set for the development of weapons and their use, and good practices need to be identified. A few examples of areas in which more specificity may be required are: the accuracy required of a projectile; how much kinetic force may be delivered to a human body; the amount of electricity that could be used; and the safe levels of a chemical irritant to be delivered by an aerosol spray. The same applies to where such devices could be used (e.g. tear gas grenades should not be used in closed spaces, and tasers should not be used when people are standing on walls). The new technologies may require that monitoring of force is mandatory in many cases.

76. It may be necessary to require selection and testing of law enforcement weapons to be carried out in each State by a legally constituted, independent,

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[33] Physicians for Human Rights, *Weaponizing Tear Gas: Bahrain's Unprecedented Use of Toxic Chemicals Agents against Civilians* (August 2012). Available from http://physiciansforhumanrights.org/library/reports/weaponizing-tear-gas.html.

[34] Amnesty International, *USA: "Less than lethal"? The Use of Stun Weapons in US Law Enforcement*, 16 December 2008. Available from www.amnesty.org/en/library/asset/AMR51/010/2008/en/530be6d6-437e-4c77-851b-9e581197ccf6/amr510102008en.pdf.

[35] Amnesty International, *Spain: The Right to Protest under Threat*, 24 April 2014. Available from http://www.amnesty.org/en/library/asset/EUR41/001/2014/en/019b583d-9f93-484f-b7e0-e499126e2ebc/eur410012014en.pdf.

[36] Human Rights Watch, "Turkey: a weekend of police abuse", 18 June 2013. Available from http://www.refworld.org/docid/51c949a34.html.

[37] See, for example, http://f24.my/1gsH4Qm.

multidisciplinary and transparent panel of experts, free of direct commercial or law enforcement interests. The system as a whole — the weapon, ammunition, sighting device and guidelines for use — should be tested in real situations (e.g. in the dark or while wearing riot gear).

B. Increased depersonalization of the use of force through unmanned systems

77. On the battlefield, the depersonalization of force against human beings has manifested itself in unmanned systems that are remotely controlled by humans, as is the case with armed drones. The use of such weapons during armed conflict is not inherently unlawful, but there are serious concerns about their use (see A/68/382 and Corr.1, para. 13, and A/68/389, para. 20).

78. There is now also an increased availability of unmanned systems — often labelled as less lethal — aimed at law enforcement and at non-State actors such as private security companies.

79. Possible areas in which unmanned weapons may be used in the law enforcement context include crowd control; action against specific classes of perpetrators, such as prison escapees or big game poachers; and provision of perimeter protection around specific buildings, such as high security prisons or in border areas. Such systems may also be used to patrol pipelines or in wars on drugs or other crime control or anti-terrorism operations.[38]

80. A South African company, Desert Wolf, is producing a drone known as Skunk Riot Control Copter, which is designed to control unruly crowds without endangering the lives of the protesters or the security staff.[39] A United States firm, Chaotic Moon Studios, is developing the Chaotic Unmanned Personal Intercept Drone, which can fire a dart packed with 80,000 volts at any unwanted intruder or criminal on the run.[40]

81. Another United States company, Vanguard Defense Industries, has manufactured a drone known as Shadowhawk, which can be armed with 37-mm and 40-mm grenade launchers, a 12-gauge shotgun with laser designator or can be fitted with an XREP taser with the ability to fire four barbed electrodes that can be shot to a distance of 100 feet, delivering neuromuscular incapacitation to the victim.[41]

82. There are also armoured robotic platforms and launchers to disperse demonstrators with tear gas or rubber bullets, to inflict powerful electrical shocks

[38] See H. G. Nguyen and J. P. Bott, "Robotics for law enforcement: beyond explosive ordnance disposal", technical report No. 1839 (Space and Naval Warfare Systems Center, San Diego, California, United States of America, November 2000); Kylie Wightman and John Burkett "SWAT and law enforcement robots" (2014), available from http://prezi.com/mjqjpo66zvzc/swat-and-law-enforcement-robots/; Carl Lundberg and Henrik I. Christensen, "Assessment of man-portable robots for law enforcement agencies" (2014), available from www.hichristensen.net/hic-papers/Permis07-Lundberg.pdf.

[39] See http://rt.com/news/167168-riot-control-pepper-spray-drone/.

[40] See http://rt.com/usa/drone-taser-gun-security-650/.

[41] See www.prisonplanet.com/big-sis-gives-green-light-for-drone-that-tazes-suspects-from-above.html.

and to mark perceived troublemakers with paint.[42] Such weapons platforms may also be equipped with firearms, light weapons or tear gas. A Germany company, VDI Technologiezentrum, has developed automatic tear gas systems that release doses of tear gas if perpetrators ignore the warning and enter further into a restricted area. Some States, including Brazil and the United Arab Emirates, use autonomous robots to monitor crowds.[43]

83. It should be asked whether remote-controlled weapons systems should be as readily viewed as legal weapons in the law enforcement context as in armed conflict. The relationship between the State and those under its protection is very different from its relationship with those whom it regards as its enemies during armed conflict. Law enforcement officials have a much stronger duty to consider the specific circumstances of each individual case before using force, including the subjective intention of those against whom force is used, than is the case during armed conflict. Unmanned systems generally also do not allow for capture, rather than the use of force.

84. The international community has over the past two years begun to engage with the emergence of increasingly autonomous weapons systems in the military context; that is, unmanned weapons with on-board computers that, once activated, can select and engage targets with no further human intervention.[44] This may well happen in the law enforcement context as well, thereby challenging a range of human rights.[45]

85. The rights in question are, in particular, the right to life (and bodily integrity in general) and the right to human dignity. It can be questioned to what extent autonomous weapons systems will have the capacity to determine the level of force, including lethal force, permissible in a particular context, especially given the limitations of the systems in terms of understanding human intentions and the subtleties of human behaviour. Using unmanned systems to deliver force in the law enforcement context is also likely to be seen in many contexts as adding insult to injury, and an affront to human dignity. For example, using unmanned systems against striking mine workers, even if less lethal, could easily be viewed as less than human treatment. I have argued elsewhere that a whole range of human rights are potentially affected specifically by autonomous weapons systems.[46]

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[42] See www.technorobot.eu/en/riotbot.htm and www.theverge.com/2014/3/8/5484924/the-cupid-taser-drone-sxsw-2014-video.

[43] See www.fastcompany.com/3009827/dubai-debuts-drones-for-crowd-control.

[44] Human Rights Watch and Harvard Law School's International Human Rights Clinic, *Losing Humanity: The Case against Killer Robots* (2012), p. 2. Available from www.hrw.org/sites/default/files/reports/arms1112ForUpload_0_0.pdf. See also: www.stopkillerrobots.org; A/HRC/23/47, para. 38; report of the International Committee of the Red Cross expert meeting on autonomous weapon systems: technical, military, legal and humanitarian aspects, Geneva, 26-28 March 2014, p. 6 (available from www.icrc.org/eng/assets/files/2014/expert-meeting-autonomous-weapons-icrc-report-2014-05-09.pdf); and Convention on Certain Conventional Weapons Meeting of Experts on Lethal Autonomous Weapons Systems, Geneva, 16 May 2014 (see http://bit.ly/1jSlCro).

[45] Human Rights Watch and Harvard Law School's International Human Rights Clinic, *Shaking the Foundations: The Human Rights Implications of Killer Robots* (2014). Available from www.hrw.org/sites/default/files/reports/arms0514_ForUpload_0.pdf.

[46] Christof Heyns, "Autonomous weapons systems and human rights law", presentation made at the informal expert meeting organized by the States parties to the Convention on Certain Conventional Weapons, Geneva, 13-16 May 2014. Available from www.unog.ch/80256EDD006B8954/%28httpAssets%29/DDB079530E4FFDDBC1257CF3003FFE4D/$file/Heyns_LAWS_otherlegal_2014.pdf.

86. Serious consideration needs to be given to whether unmanned systems, in particular autonomous weapons systems used in the context of law enforcement, whether with lethal or less lethal force, can be considered lawful weapons per se.

87. The question arises about the appropriate forums within the international system to deal with these concerns. Increasing autonomy in force delivery can occur in various contexts: during armed conflict (where the force at stake will mostly be lethal) or law enforcement (where the norm is the use of minimum force, often taking the form of "less lethal force").[47] A coherent approach is called for: the human rights bodies dealing with these issues should take note and engage with the processes in disarmament bodies, and vice versa, with both approaches having an important role to play (see A/HRC/26/36, para. 144).[48]

C. Recommendations

88. **The United Nations High Commissioner for Human Rights should convene an expert group to examine the application of the international human rights framework to less lethal weapons and unmanned systems in the context of law enforcement and private security, focusing on the legality of the weapons and restrictions on their use. The High Commissioner should recommend a process to the Human Rights Council, also involving other important stakeholders such as the United Nations Office on Drugs and Crime (UNODC), to fill identified gaps.**

89. **The international community, and in particular the various United Nations bodies, must adopt a comprehensive and coherent approach to autonomous weapons systems in armed conflict and in law enforcement, one which covers both the international humanitarian law and human rights dimensions, and their use of lethal and less lethal weapons. As such, the various international agencies and institutions dealing with disarmament and human rights, such as the Convention on Certain Conventional Weapons and the Human Rights Council, each have a responsibility and a role to play.**

V. Resumption of executions

90. In a previous report, I have brought to the attention of the General Assembly the trend in State practice, at the global level, towards the abolition of the death penalty (A/67/275, paras. 17-22). The trend is in line with the requirement under international law, identified in paragraphs 39 to 42 of that report, for the progressive abolition of the death penalty. The existence and continuation of this trend

[47] The term "lethal autonomous weapons systems" (LAWS), is used in the Convention on Certain Conventional Weapons (see http://bit.ly/1jSlCro). The Special Rapporteur has used the term "LARS" (lethal autonomous robots) (see A/HRC/23/47). Upon reflection, the use of the word "lethal" unduly restricts the discussion, and excludes less lethal applications, for example during law enforcement.

[48] That autonomous weapons systems are not yet in use does not diminish the responsibility of the various bodies. The Human Rights Council, for example, is explicitly required to contribute towards the prevention of human rights violations (General Assembly resolution 60/251, para. 5 (f)).

subsequently received further confirmation,[49] pointing towards the real possibility that the death penalty is nearing its end.

91. At the same time, this is not a linear process; in isolated cases there are resumptions and extensions of the death penalty that could constitute violations of the right to life. Moreover, recent developments have shown that announcements by States that they will stop executions cannot always be accepted at face value and should therefore be followed by formal steps, including legal abolition.

92. At a subsequent stage of its current session, the General Assembly will again consider a resolution calling for a global moratorium on executions, with a view towards abolition. It is appropriate therefore to dedicate a section of the present report to the question of the resumption of executions.

A. Resumption of executions since 2012

93. Over the past two years, 10 countries have conducted executions after a period of two years or more during which there were none.[50]

94. In some cases, the practice of non-execution was firmly entrenched. For example, in the Gambia, after 27 years when there were no official executions, nine death row inmates were killed by firing squad in August 2012. This happened despite the fact that, during the universal periodic review of the Gambia in the Human Rights Council in 2010, its Government had reaffirmed the moratorium. In September 2012, a renewed conditional moratorium on executions was announced by the President.

95. In November 2012, a man convicted for his role in the 2008 terrorist attack in Mumbai, India, was executed with no prior announcement. It was the first execution to be conducted in India in more than eight years.

96. In Nigeria, four executions were conducted in June 2013 in Edo State, the first since 2006. No advance notice was given to the families, and the executions were carried out while legal proceedings and appeals were under way. In 2009, the Government had expressed its commitment to a moratorium during its universal periodic review. The Minister of Justice has since reaffirmed a moratorium at the federal level.

97. In several cases, the resumption took place with no public announcement, or even notification to relatives or lawyers.

B. Concerns from the international law perspective

98. At the very least, it is clear that resumptions of executions run counter to the international trend towards the reduction and eventual abolition of the death penalty. However, they also raise the question as to what extent resumption after a long period is compatible with human rights.

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[49] Amnesty International, *Death Sentences and Executions 2013* (March 2014). Available from www.amnestyusa.org/sites/default/files/act500012014en.pdf.

[50] In 2012, in the Gambia, India and Pakistan; in 2013, in Indonesia, Kuwait and Nigeria; and, to date in 2014, in Belarus, Egypt, Equatorial Guinea and Singapore.

99. In its resolution 2005/59, the Commission on Human Rights called upon States that had recently lifted or announced the lifting de facto or de jure of moratoriums on executions once again to commit themselves to suspending such executions. The Human Rights Committee has expressed its deep concern "at the de facto reinstitution of death sentences and executions" in a State party to the International Covenant on Civil and Political Rights (CCPR/CO/84/SYR, para. 7). In general comment No. 6 (1982), it was concluded that all measures of abolition should be considered to be progress in the enjoyment of the right to life.[51] This means that, conversely, any resumption of executions, as does any other measure that increases the use of the death penalty, leads to less protection of the right to life.

100. At present, the United Nations considers States to be de facto abolitionist if they have carried out no executions for 10 years (E/2010/10 and Corr.1, para. 3 (c) (i)). If executions are resumed after being suspended for a decade or more, then the categorization of these States is undermined.

101. Working groups convened within the context of the universal periodic review — understandably — often comment positively on the existence of moratoriums. However, States that have not yet gone beyond a de facto moratorium may find themselves being asked to give increased assurances of a non-return to executions.

C. Potential arbitrariness of resumption

102. If executions were suspended for an extended period, it is unclear how authorities would be able to provide objective reasons for their resumption at a specific point in time, or for specific prisoners on death row, especially if no prior announcement is made. If the timing of an execution and the selection of prisoners are essentially decided upon at random, those executions are rendered arbitrary.

Extraneous causes

103. Executions may be considered arbitrary if they are resumed owing to extraneous developments, unrelated to the crime or criminal in question. A current deterioration in the law and order situation of a particular State is not attributable to a convict on death row, who may have committed his or her crime years, or even decades, before. The execution of that convict in order to demonstrate strength in the criminal justice system is arbitrary.

104. Even if one assumes that the convict on death row is guilty of a most serious crime, outside factors that may prompt a Government to resume executions have no relationship to his or her culpability, or therefore to the punishment applied.

Legitimate expectations

105. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated that convicts and family members have a right to prepare for death (A/67/279, para. 40). This implies that, when a Government changes its position concerning executions, sufficient notice must be given. The newly reinforced anxiety for both prisoners and family members must be mitigated

[51] General comment No. 6: Article 6 (Right to life), 1982 (HRI/GEN/1/Rev.9 (Vol. I)), para. 6.

not only by giving time to adapt, but also by allowing lawyers to explore all available legal options. In the context of the resumption of executions in India in 2012, it was reported that the authorities explained the lack of prior announcement with the need to avoid intervention from human rights activists.[52]

106. Even if one rejects the idea that prisoners and their families may have developed something akin to legitimate expectations to avoid execution, it should be noted that other participants in the process may have. For example, prosecutors are arguably more inclined to demand and judges to impose death sentences if they assume the sentence will not be implemented. The psychological pressure on prison personnel is different if they assume that they will never have to carry out executions. Resumption of executions destroys a balance that many participants in the process will have taken for granted and could lead to executions that were not intended to become reality.

D. Conclusion

107. **The overall trend away from the death penalty is certain and ongoing. It appears safe to say that States that have begun to move away from the death penalty will increasingly be expected to confirm that position in law.**

108. **In a world in which human rights mechanisms operate on timescales considerably shorter than 10 years (during which, for example, a State could conceivably undergo three universal periodic reviews), it is worth considering how perceptions of a moratorium may alter the circumstances of individual cases.**

109. **At the very least, the examples of several of the resumptions of execution discussed above underline the fundamental need for States to make public their intentions concerning executions in advance, allowing sufficient time for relevant legal challenges to be prepared and heard.**

E. Recommendations

110. **Moratoriums should be formally established in line with the relevant resolutions of the General Assembly on the use of the death penalty or, better yet, measures to abolish the death penalty should be enshrined in law.**

111. **Human rights bodies, Member States during universal periodic reviews and other observers, while welcoming moratoriums, should encourage States to formalize the abolition of the death penalty in law.**

112. **Should a State nevertheless decide to resume executions, it is important that authorities at least give advance notice. This corresponds with a more general obligation of States to practise the death penalty transparently.**

[52] Amnesty International, *Death Sentences and Executions 2012 (April 2013)*, p. 20.

VI. Statistical approach to the right to life

113. The importance of taking an evidence-based approach to human rights is widely recognized. Explored in the present section are the implications of keeping statistics regarding the right to life.

114. It should be emphasized at the outset that human rights is about more than just counting bodies. An exclusive emphasis on statistics can very easily lead to a crude utilitarian approach, in which lives are measured against one another and the approach that leads to the net protection of life is given automatic preference. Notions such as dignity are also irreducible values within the human rights canon, which eschews the weighing of lives against one another because it regards the value of life as ultimately unquantifiable. What is at stake is the protection of dignified life.

115. While protecting the right to life is thus not merely about counting bodies, without reliable statistics it will in many cases not be possible to ensure that sensible policies are followed in the pursuit of prevention of and accountability for violations of the right to life. The contention here is that accounting for life, both in the sense of keeping count of life and death and in the sense of holding to account those responsible for violations, is a central part of the State's responsibility with regard to the right to life.

A. Benefits of counting

116. Measuring the implementation of the right to life requires data and statistics that are conceptually sound, empirically validated and relevant to the context in which they are used. The Office of the United Nations High Commissioner for Human Rights has developed a framework of indicators to respond to a long-standing need for appropriate data and statistics in furthering the cause of human rights. The framework aims to translate human rights standards into indicators that are contextually relevant and feasible at the national level. It was used to develop illustrative indicators on a number of rights, including the right to life.[53] In addition to numbers of killings, this might also involve other indicators, such as numbers of deaths in custody (by cause of death).

117. The most obvious and direct benefit of proper statistics with regard to life and death for both international and national observers is the comparative benefit. Contrasting the homicide rates of two countries, or of two periods of time within one country, could be a useful analytical resource. At the regional or global level, accurate statistics would allow for the establishment of realistic and measurable goals or targets in terms of reduction.

118. In addition to those analytical benefits, accurate figures about violent (and other) deaths are invaluable to guiding policy, and might be referred to as the programmatic benefit. Being able to measure the effect of specific policies, or more accurately to focus upon problem demographics or modalities of killing, leads to better-targeted policymaking at both the national and international levels. In a public

[53] See Office of the United Nations High Commissioner for Human Rights, *Human Rights Indicators: A Guide to Measurement and Implementation* (New York and Geneva, 2012). Available from www.ohchr.org/EN/Issues/Indicators/Pages/HRIndicatorsIndex.aspx.

health context, when statistics are available, practitioners constantly refer to them to substantiate claims for prioritization or success.

119. Less obvious, but perhaps more important, are the normative and procedural benefits. First, the process of counting serves to make the point that all lives are of equal value, transcending national and other divides. Second, it underlines the fact that the State's responsibilities with regard to life go beyond simply respecting it (and hence not engaging in unlawful killing through its own agents) and extend to protecting it (and hence preventing people from being killed unlawfully by non-State actors). To do this effectively, States must have knowledge of when and how lives have been lost and, where applicable, hold the perpetrators to account.

B. Measuring loss of life statistically

120. There are broadly four levels of analysis concerning lives and deaths, with increasing levels of subjectivity. The first level is basic population data. The second level subdivides population data into only those deaths that are objectively determined to have been violent. The introduction of a subjective element, the third level, narrows the scope to criminal violent deaths (homicides), but tends to exclude killings where subjective determination is complex: for example, in situations of armed conflict. The fourth level is the human-rights-based framing of an unlawful killing, that is, a criminally violent death in which the State was either directly involved or that it should have done more to prevent.

121. Counting at the various levels becomes more difficult as the number of subjective factors increases (especially factors that may not be determined for several months, if not years, after the event). Accurate global counting at the fourth level is not currently practicable.

122. There are two main methods for keeping track of deaths (i.e. incident reporting) at the second and third levels, which can be used separately or in conjunction. The first is analysis of public health records; the second is the collation of police reporting. The leading exponents of global collation of incident reporting are the two global agencies charged with health and crime, respectively.

Violent death: World Health Organization

123. The public health approach treats violent death in an objective way. Because most countries require public health authorities to register each death, public health records can represent the most reliable incident reporting systems. Moreover, they are less susceptible to subjective influences (e.g. legal definitions of homicide or political pressure to reduce crime).

124. The World Health Organization (WHO) is responsible for assessing causes of death on a global scale, and hence for collating public health data. Using a universal classification, the International Statistical Classification of Diseases and Related Health Problems (ICD), WHO produces global health estimates (GHE). Included in the tenth revision of the Classification (ICD-10) are various categories of "Assault" (X85-Y09) and "Legal intervention and operations of war" (Y35 and Y36). These are condensed into two GHE codes, "Interpersonal violence" and "Collective violence and legal interventions" (GHE (2012), Nos. 158 and 159). A measure of

violent death (the second level discussed above) can be deduced by combining the two.

125. A comparison of the number of violent deaths and the violent death rate (per 100,000 annually) in various regions of the world between 2012 and 2000 appears in the table. The indication of a reduction of global levels of violence by more than 10 per cent is very promising. The significant increase in interpersonal violence in both sub-Saharan Africa and Latin America is, however, a cause for concern that requires further exploration, especially when contrasted with substantial reductions in other regions over the same period.

Violent deaths per 100,000 by (World Bank) region, 2000-2012

	2012			*2000*			
	Inter-personal violence	*Collective violence*	*Violent death rate*	*Inter-personal violence*	*Collective violence*	*Violent death rate*	*Percentage change*
World	**504 587**	**119 463**	**8.82**	**489 650**	**122 373**	**9.99**	**-12**
High-income countries	43 158	2 332	3.52	72 748	9 197	6.82	-48
East Asia and Pacific	51 678	4 954	2.79	74 266	9 013	4.52	-38
Europe and Central Asia	11 153	1 983	4.85	20 512	1 018	8.35	-42
Latin America and Caribbean	164 460	1 465	28.54	138 057	3 366	28.27	1
Middle East and North Africa	12 728	73 114	25.22	9 224	3 756	4.69	+438
South Asia	89 043	21 932	6.73	73 641	18 300	6.65	1
Sub-Saharan Africa	132 367	13 684	16.02	101 203	77 724	26.92	-40

Source: *Unlawful Killings in Africa: A Study Prepared for the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions* (Cambridge, United Kingdom, University of Cambridge Centre of Governance and Human Rights, June 2014.

126. One important caveat to bear in mind with regard to WHO figures, however, is that they rely upon national reporting. Where this reporting is weak (such as in many parts of Africa), WHO must rely upon statistical modelling.[54]

127. With the publication of its *World Report on Violence and Health* series, WHO and its Violence Prevention Alliance have brought the problem of violence into the ambit of a public health approach. This was recently exemplified by resolution WHA67.15, adopted by the World Health Assembly on 24 May 2014, in which attention was drawn to the role of the health system in addressing violence reduction, in particular violence against women and girls.[55]

Criminal violent death: United Nations Office on Drugs and Crime

128. In most settings, violent deaths are also reported by the police. Using forensic information from the autopsy reports, the police and the criminal justice system investigate the intent and perpetrator of the killing.

[54] On WHO statistics in general, see Colin D. Mathers and others, "Counting the dead and what they died from: an assessment of the global status of cause of death data", *Bulletin of the World Health Organization*, vol. 83, No. 3 (March 2005), pp. 171-187.

[55] Available from http://apps.who.int/gb/ebwha/pdf_files/WHA67/A67_R15-en.pdf.

129. UNODC compiles national police reporting in order to provide the rate of homicides per 100,000 population. According to the definition currently used, intentional homicide is "unlawful death purposefully inflicted on a person by another person". This definition has three elements:

(a) The killing of one person by another (objective element);

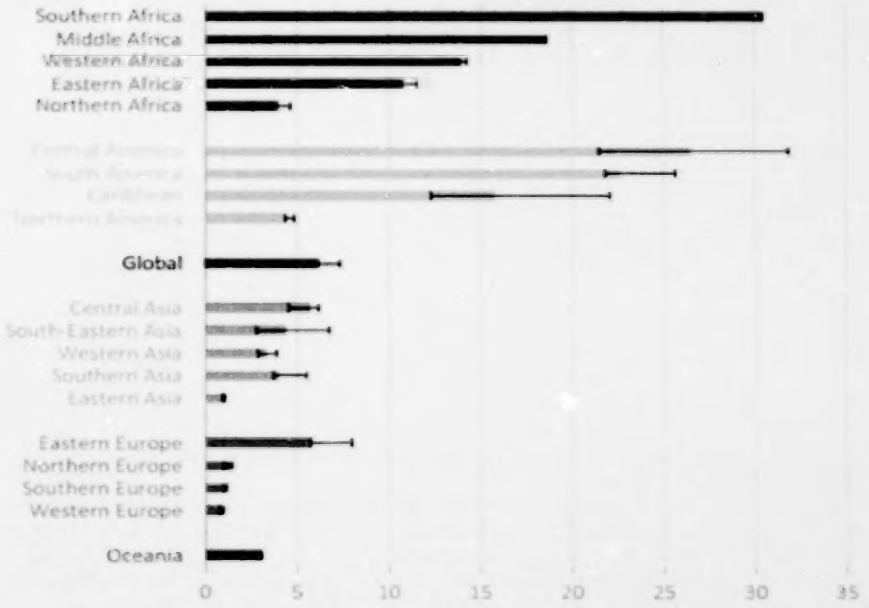
(b) The intent of the perpetrator to kill or seriously injure the victim (subjective element);

(c) Intentional killing is against the law (legal element).

130. Data on the global incidence of homicide are compiled by UNODC primarily from such procedures as the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems and hence rely heavily upon States reporting their own statistics. In a regrettable number of cases, States cannot or do not provide sufficient information. In such circumstances, UNODC adopts figures from public health data.

131. The data compiled in 2013 suggest a current global homicide rate of 6.2 cases per 100,000 population. The variation of this rate by region is illustrated in figure I. It also varies widely by country, with an extreme of more than 90 per 100,000, but with more than 20 States having a homicide rate of less than 1 per 100,000. The five countries with the highest homicide rates (all more than 40 per 100,000) are all in Central or South America.[56]

Figure I
Homicide rate per 100,000 population by subregion, 2012 or most recent



Source: United Nations Office on Drugs and Crime homicide statistics.
Note: Bars represent population weighted average homicide rate, with high and low estimates.

[56] See www.unodc.org/gsh/en/data.html.

132. The recent UNODC *Global Study on Homicide 2013* contains sections on sociopolitical homicide, unlawful killings by law enforcement authorities and the killing of journalists. One chapter is dedicated to examining how homicide, violence and conflict overlap in post-conflict settings. All these are subjects directly relevant to my mandate.

133. The formulation of an international classification of crime for statistical purposes is nearing completion. It will be a welcome development if categories of killing, such as honour killings, dowry deaths, infanticide and deaths caused by excessive force by law enforcement or other State officials, are included therein. Once the classification is finalized, it will be important that States use it to submit national crime statistics.

Mixed measurements

134. A number of well-respected civil society organizations track violence on a global scale. They are a valuable source of statistics concerning deaths directly (and indirectly) caused by conflict.[57] The Office of the United Nations High Commissioner for Human Rights has also conducted anaiysis based on statistical indicators from a wide range of sources.[58]

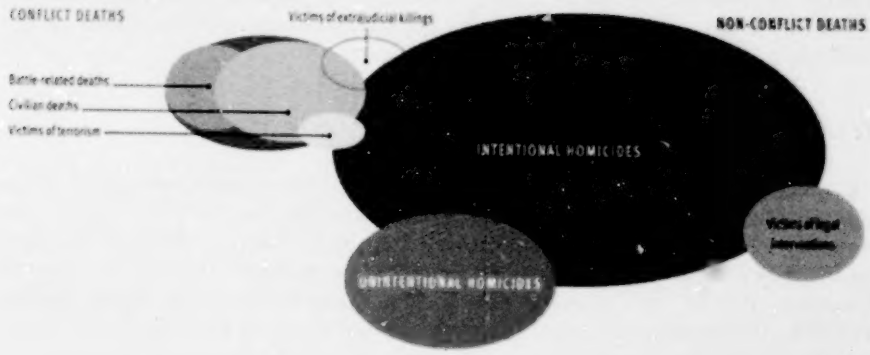
135. One interesting civil society example is that of the organization monitoring the Geneva Declaration on Armed Violence and Development, which analyses statistics on violence at a global level, both within armed conflict and outside it. Its report, *Global Burden of Armed Violence*, places the number of interpersonal homicides worldwide within the context of the overall number of violent deaths (including direct conflict deaths and deaths during legal interventions).[59] The proportions shown in figure II draw attention to the significance of homicide as by far the greatest interpersonal threat to life. This should be taken seriously in discussions of the right to life.

[57] For example, the Heidelberg Institute for International Conflict Research, the Human Security Report Project and the Uppsala Conflict Data Program.

[58] For example, the Office recently led a statistical analysis compiling a list of 92,901 documented cases of individuals killed in the Syrian Arab Republic between March 2011 and April 2013. The analysis shows a dramatic increase in the average monthly number of documented killings since the beginning of the conflict, from around 1,000 per month in the summer of 2011 to an average of more than 5,000 per month since July 2012. The list, compiled using data sets from eight sources, also provides information on killings by subregion, gender and other characteristics of the victims. The analysis is available from www.ohchr.org/Documents/Countries/SY/HRDAG-Updated-SY-report.pdf.

[59] Geneva Declaration Secretariat, *Global Burden of Armed Violence* (Cambridge, United Kingdom, Cambridge University Press, 2011), p. 43.

Figure II
How violence is reported and recorded



Source: Geneva Declaration Secretariat, *Global Burden of Armed Violence* (Cambridge, United Kingdom, Cambridge University Press, 2011).

C. Limitations of statistical measurement

136. The single greatest procedural limitation to a statistical approach is the lack of comprehensive reporting. As noted above, the regional variation in quality of reporting is very large, and often reporting is weakest in areas in which it is needed most. This in and of itself reflects a lack of accountability and thus a general violation of the right to life. Governments either have the information and choose not to share it through health or crime surveys, which is a problem, or they simply do not know how people are dying within their jurisdiction, which is arguably worse.

137. Improvement in this area involves two linked development priorities. To keep track of deaths properly, it is necessary to know who was alive. Accurate birth registration and census information is lacking in many parts of the world. Moreover, the insufficiency of crime reports is a significant limitation on both the ability of the police to uphold the law and that of the State to address the problem of lethal violence. The development of capacity around both issues should be emphasized.

138. It should also be noted that both types of incident reporting generally provide conservative estimates. In countries with limited financial resources, health facilities accord priority to the treatment of patients over the accurate capture of causes of injury or death; not all countries have the same legal definitions; some types of homicide (such as honour killings) may go unreported; and most police forces will not record a homicide without having found a body. These limitations to incident reporting are even more pronounced in conflict settings.[60]

139. It must be emphasized that none of the statistics described above explicitly concern unlawful killings, the direct subject of my mandate. It is possible that the factors determining whether a given killing is unlawful in an international sense are

[60] Geneva Declaration Secretariat, *Global Burden of Armed Violence* (Cambridge, United Kingdom, Cambridge University Press, 2011), p. 50.

too subjective to be grouped statistically. Moreover, it is unlikely that such human rights violations as unlawful killings will ever be fully captured by a system that is reliant on reporting by States. It is important to re-emphasize, however, that the types of killings considered above could incur a State responsibility with regard to the right to life, if left unaddressed.

D. Conclusion: establishing targets

140. **Regrettably, the world is not yet at a stage where each individual life is equally well tracked: just one of many ways in which the ideal of fundamental equality of life remains distant. Working from the normative basis of the right to life, however, leads to the assertion that, to protect that right, States need to treat any loss of life (whether a homicide, a death occurring during armed conflict or a death occurring during a legal intervention) as a significant event worthy of official record. From this point, the requirements of transparency dictate that information about deaths must be shared with intergovernmental organizations such as WHO and UNODC.**

141. **Human rights work cannot be guided only by statistics, but such measurements can be used to establish targets. In this respect, it is to be welcomed that the issue of violence reduction has been proposed as part of the post-2015 development agenda, with a proposal to halve violent deaths by 2030.**[61] **Others have suggested that the international community should aim to reduce the global homicide rate to 2 per 100,000 population by 2060.**[62]

142. **It should be noted that, while development goals will bring welcome attention to the question of homicide rates or rates of violent death, they will also increase the incentive to blur the reporting of killing so as to exaggerate progress. It is important that responsibility for the monitoring of crime statistics be vested in independent and transparent bodies, such as police oversight mechanisms, and that such bodies firmly resist political pressures concerning their reporting.**

143. **While it would be reductionist to become overly focused on statistical goals, for the remainder of my mandate I shall look to cooperate with WHO and UNODC and relevant civil society organizations to achieve greater prominence for the issue of the right to life and violence reduction, including within development agendas.**

E. Recommendations

144. **Greater attention should be paid to violent death rates, criminal homicide rates and other right-to-life indicators during discussions of the right to life in universal periodic reviews and other human rights mechanisms.**

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[61] See http://sustainabledevelopment.un.org/content/documents/4523zerodraft.pdf.

[62] Manuel Eisner and Amy Nivette, "How to reduce the global homicide rate to 2 per 100,000 by 2060" in Rolf Loeber and Brandon C. Welsh, eds., *The Future of Criminology* (Oxford, Oxford University Press, 2012).

145. **United Nations agencies and other international actors should support efforts to establish a specific target for the reduction of violent deaths within the post-2015 development agenda.**

146. **Donors and development agencies should work to increase national capacity for the accurate measurement of life and death (including both birth and death registration), in addition to the reporting (in a depoliticized manner) of national crime statistics. States should make available to the international community, through such mechanisms as the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, all information with regard to loss of life and other crimes.**